STATE OF MICHIGAN

COURT OF APPEALS

BEATRICE MORGAN,

Plaintiff-Appellant,

v

JOSEPH MAKOWSKI,

Defendant-Appellee.

UNPUBLISHED
February 21, 2003

No. 238037
Antrim Circuit Court
LC No. 01-007726-NO

Before: Kelly, P.J. and White and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. Basic Facts and Procedural History

On the afternoon of May 18, 2000, plaintiff went to visit defendant whose home has a deck that provides the only means of entering and exiting the home. The deck is approximately eighteen inches above the ground and has neither guardrails around the edges nor handrails on the stairways. The deck is built around two trees that drip sap and other debris that at times cause the deck to become slippery. Plaintiff, defendant's girlfriend at the time, had visited defendant's home several times a week for seven years, and was familiar with the deck. Plaintiff slipped and fell as she exited the home and stepped onto one of the deck's stairways.

Plaintiff filed suit alleging that she was on defendant's property as an invitee, that the deck was unreasonably dangerous due to its slipperiness and lack of safety rails, that defendant negligently failed to maintain the deck in a reasonably safe condition, and that defendant failed to warn of the unsafe condition. Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that plaintiff was a licensee rather than an invitee, and because the condition was open and obvious.

The trial court granted defendant's motion for summary disposition.[1] Initially, the court determined that plaintiff was a licensee because she was a social guest at defendant's home. The

[1] Although the trial court did not specify the rule under which it granted defendant's motion, it (continued…)

court further found that plaintiff's deposition testimony established that defendant told her the deck could be slippery, and that she knew the risk of slipping and falling existed when the deck was slippery. The court did not address defendant's argument that he owed no duty to plaintiff because the condition was open and obvious.

II. Standard of review and Applicable Law

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

To establish a prima facie case of negligence, a plaintiff must prove: (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached the duty; (3) that the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) that the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000).

A social guest is a licensee. *Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 596; 614 NW2d 88 (2000). A landowner owes a licensee a duty to warn of dangerous conditions on the land of which the owner knows or has reason to know if the licensee does not know or have reason to know of the conditions. *Id.* A landowner does not owe a licensee a duty to inspect the premises or to make the premises safe for the licensee. *Id.*

III. Analysis

Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition.[2] We disagree.

At the time of the accident, plaintiff had been involved in a personal relationship with defendant for seven years, and had visited his home several times per week during that period. Plaintiff conceded that she was familiar with the configuration of the deck, and that she walked on it when she visited the home. She acknowledged that defendant told her the deck could become very slippery when tree sap and/or debris fell on it, and she heard defendant give the same warning to other people. Plaintiff also admitted that she knew that wood could be slippery under some conditions.

Knowledge of a condition is sufficient to apprise an adult licensee of the full extent of the risk involved with the condition. See *DeBoard v Fairwood Villas Condominium Ass'n*, 193 Mich App 240, 242-243; 483 NW2d 422 (1992). The trial court correctly concluded that given plaintiff's admitted knowledge that the deck could be slippery under various conditions, no

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(…continued)

was apparently MCR 2.116(C)(10) because the trial court relied on documentary evidence, in particular deposition testimony, in making its decision.

[2] Plaintiff's discussion of the open and obvious doctrine and the special aspects exception to that doctrine set out in *Lugo v Ameritech Corp*, 464 Mich 512; 629 NW2d 384 (2001), is misplaced because the trial court did not address or rely on that doctrine in granting defendant's motion for summary disposition.

reasonable person could find that plaintiff was unaware of the danger of slipping and falling on the deck, and that defendant was not required to give plaintiff further warnings.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Helene N. White
/s/ Joel P. Hoekstra